

## **EDINBURGH NAPIER STUDENTS' ASSOCIATION CONSTITUTION (2021)**

### **1. NAME OF THE ASSOCIATION**

The body formed by this Constitution shall be entitled "Edinburgh Napier Students' Association" (hereinafter "the Association")

### **2. DEFINITION AND PURPOSES**

The Association shall:

2.1 be an Association of the current Students of Edinburgh Napier University (hereinafter "The University"), who shall be Members of the Association (see Schedule 1).

2.2 conform to the requirements of the Education Act 1994 and the laws of Scotland.

2.3 be a not for profit organisation, with any financial surpluses being used for the benefit of the Association and its Objects.

### **3. MISSION**

The Association shall work with Members, Association staff, the University, and Society locally and nationally, to enhance the student experience of the students of the University and to assist them in achieving their full potential.

### **4. OBJECTS**

The objects of the Association shall be:

4.1 to represent the interests of the membership within the University and the wider community.

4.2 to provide advice and support to the membership, collectively and individually, on issues affecting their education and welfare.

4.3 to provide safe social space and a range of services to cater for the needs of the membership.

4.4 to facilitate regular communication between the Association and its membership; and between the Association, its members, the University and the wider community as and when appropriate.

4.5 to provide opportunities for personal and professional development for its membership, through participation in Association and University committee structures and activities, and in the activities of the Association's Sports and Societies.

4.6 to foster an Edinburgh Napier student identity and culture within the University, across academic disciplines and campuses, and in the wider community.

### **5. MEMBERSHIP**

The full Members of the Association shall be the matriculated students of Edinburgh Napier University, except that students have a right to opt out of membership under the terms of the Education Act 1994. The definition and rights of full Members and other categories of membership shall be as defined in Schedule 1.

### **6. THE CORPORATE TRUSTEE**

#### **6.1 Structure**

(a) For the purposes of the Charities and Trustee Investment (Scotland) Act 2005, the Charity Trustee of the Association shall be the Corporate Trustee. The Corporate Trustee, registered with Companies House as Edinburgh Napier Students' Association Ltd, is a Company Limited by Guarantee and shall carry out its duties and responsibilities as a Charity Trustee through its Board of Directors.

(b) Individuals appointed and/or elected as office holders of the Association under this Constitution shall, in that capacity, be treated as having been appointed as Directors of the Corporate Trustee and shall exercise their duties and responsibilities of general control and management of the administration of the Association through the Corporate Trustee structure.

- (c) In the event that the Corporate Trustee Articles of Association conflict with the Association Constitution, the Association Constitution shall take precedence.
- (d) The Association shall meet the Corporate Trustee's reasonable set up and running costs including, but not limited to, incorporation, insurance, annual returns, accounts, and audit.

## **6.2 Remit**

- (a) To govern the Association effectively in the interests of its beneficiaries and to deploy its assets for the benefit of its beneficiaries.
- (b) To ensure that the Association's goals, activities and services are consistent with its mission and objects.
- (c) To create an overall strategic plan for the Association that aligns with its mission; to allocate the resources required to implement the plan; to monitor and evaluate progress towards strategic goals; and periodically to re-align or review the plan to its objectives.
- (d) To be the custodian of the Association's assets and finances and take steps to create transparent and effective systems of financial control.
- (e) To provide a treasurer's report for the audited accounts and an annual report to OSCR, the Scottish Charity Regulator, and the Court of Edinburgh Napier University.
- (f) To employ staff to develop and deliver support, services and activities to the Association's beneficiaries;
- (g) To direct fund-raising activities to enable the Association to fund its strategy and operations.
- (h) To uphold the Association Constitution, interpreting its terms, and subjecting it to periodic review; and to determine the process for that review. Periodically to amend the Schedules of the Constitution to reflect the developing needs of the Association.
- (i) To take all reasonable steps to make the Association compliant with the laws of Scotland.
- (j) To have regard to the impact of the Association's operations on the community and environment.

## **6.3 Office Holders**

The following office holders of the Association shall be treated as having been appointed as Directors of the Corporate Trustee:

- (a) no fewer than three and no more than six External office holders, one of whom is a member of the Court of the University. The selection of External office holders is defined in Schedule 2.
- (b) no fewer than two and no more than four Sabbatical officers, being the President and Co-Presidents (the Sabbatical office holders), elected by the student body annually; the election and duties of whom are defined in Schedules 4 and 5.
- (c) no fewer than two and no more than four Student office holders selected from the student body; the selection process is defined in Schedule 2.
- (d) subject to temporary variation due to resignation or election, the number of External Directors shall be equal to the combined number of Sabbatical and Student Directors.
- (e) there shall not be, in total, more than six Sabbatical and Student Directors combined.
- (f) the Directors are all collectively responsible for the actions and decisions of the Corporate Trustee and they must all comply with their legal duties and responsibilities as charity trustees.

## **6.4 Quorum**

- (a) The Quorum for Corporate Trustee meetings shall be one third of the total number of Directors (rounded down), with no fewer than two External, and two Student or Sabbatical Directors present.
- (b) The Quorum for discussion of a proposal to amend the Association Constitution shall be one half of the total number of Directors; otherwise see 6.4 (a) above.

## **6.5 Meetings**

The Corporate Trustee shall meet not less than four times per academic year; one of which shall be its Annual General Meeting. The Corporate Trustee shall otherwise convene and conduct its Board Meetings in accordance with its Articles of Association.

## **6.6 Chair of the Board**

(a) From among the External Directors, excluding the Court Director, one shall be elected Chair by the Board, for a period of office as Chair of, normally, three years with the possibility of re-election, normally for a further three years.

(b) The period of office as Chair shall count towards the External Director's term of office. The External Director's maximum term of office and period of office as Chair may not exceed eight years.

(c) The Board may elect a Vice-Chair; the arrangements for this are given in Schedule 2.

## **6.7 Staff of the Association.**

(a) the Association shall employ the necessary staff for its functions and proper operation, one of whom shall be the Chief Executive Officer, who shall report to the Chair of the Board as line manager, and who shall have responsibility for the staff and resources of the Association in consultation with the Chair, excepting that the sabbatical officers report to the Chair of the Board as line manager.

(b) All members of staff, including the elected sabbatical officers, are governed by contracts of employment.

## **6.8 Sub Committees and Sub-Groups of the Corporate Trustee**

(a) The Corporate Trustee shall have powers to delegate authority in defined areas to sub-committees and sub-groups of the Corporate Trustee; in addition it may create and dissolve working groups or temporary committees.

(b) The Corporate Trustee shall have a Standing Committee responsible for Finance. Other Standing Committees may be constituted and dissolved from time to time. See Schedule 2.

## **7. POWERS OF THE ASSOCIATION**

The Association shall have powers within Charity and Company Law, and having regard to the Education Act 1994, by resolution of the Corporate Trustee to:

7.1 enter into contracts and agreements with the University and other bodies or companies for goods or services which further the Objects of the Association.

7.2 maintain proper books of account; and report annually to the University and the Scottish Charity Regulator (OSCR) on its financial affairs.

7.3 employ such staff on such terms, permanent or temporary, and under such conditions as it may from time to time determine, having regard to proper conditions of service.

7.4 affiliate with, or take membership in, such bodies as it considers will assist in furthering the Objects of the Association, subject to required reporting to the membership and the University of such activities and the associated fees or donations thereby paid.

7.5 enact a complaints procedure, with associated appeals provisions, for members, students and the public to raise concerns about the conduct and activities of the Association and its members and staff.

7.6 undertake such other activities which it deems lie within its powers to promote its objects.

## **8. STUDENT-LED DEMOCRATIC STRUCTURES**

These provisions relate to the student-facing structures that make policy relating directly to the student experience. They also relate to the Association's elected officers acting in a representative capacity for the collective interests and issues of the student body so as to bring about improvements to the student experience, in relation to the Association, the University and the wider community.

### **8.1 The Elected Sabbatical President and Co-Presidents**

The Association shall provide for members to elect sabbatical officers to lead the democratic processes of the Association, developing policy, representing students and enabling the student voice to be heard.

### **8.2 The ENSA 50 (elected Student Council)**

ENSA 50 is the principal body by which student opinion is reported to the Corporate Trustee and to the University and its designated staff, and to the wider community.

**The ENSA 50's Remit:**

- (a) To create, by democratic means, policy initiatives for their elected sabbatical representatives to pursue in order to improve the student experience.
- (b) To address the collective concerns of the student body at Edinburgh Napier University in relation to their shared experience as students, and to charge their elected representatives with addressing their shared aspirations and concerns through negotiated means and/or the organisation of student campaigns to bring about improvements.
- (c) To provide a pool of engaged, informed and active student representatives from which elected officers may draw to assist with the organisation of, and participation in, campaigns to bring about change to improve the student experience.
- (d) To hold the Sabbatical President and Co-Presidents, and one another as members of the ENSA 50, to account for the actions taken, or not taken, during their term of office, to advance the interests of the student body of Edinburgh Napier University.

See Schedule 3 for membership, quorum and meeting arrangements for the ENSA 50.

**8.3 Forums.**

Student Forums shall be set up for all major constituent groups of the Association's members, including but not limited to:

- (a) programme representatives
- (b) sports club office holders, and
- (c) society office holders.

Forums shall each be convened by a Sabbatical President or Co-President. Forums are consultative bodies representing a sub-section of the student body but may take business to the ENSA 50 as appropriate. See Schedule 3.

**8.4 Referendums**

A referendum of all students who are full members of the Association is required in the event that a resolution is passed by the Board of the Corporate Trustee to amend the Constitution (see section 11 below). Amendments to the Constitution must receive a simple majority vote in favour in a referendum in which a minimum of 10% of the eligible student body has voted.

Proposals for changes that only apply to a Schedule or Schedules to the Constitution do not require to be put to a referendum.

**9: SPORTS CLUBS AND STUDENT SOCIETIES**

In support of its objects, the Association shall regulate and support the establishment and operation of sports clubs and student societies. Schedule 6 provides the framework and principles that guide the development of rules and policies governing the membership and operation of a club or society of the Association.

**10. GENERAL MEETINGS OF THE ASSOCIATION**

10.1 The Association shall hold an Annual General Meeting (AGM) of its members normally in trimester 2.

10.2 The AGM shall receive reports from the sabbatical officers and from the Chair of the Board of Directors of the Corporate Trustee.

10.3 It shall consider the annual audited accounts and it shall be required to approve the Association's affiliations, taking account of their associated costs.

10.4 It shall conduct such business as may be ordered by the Corporate Trustee or by resolution.

10.5 Extraordinary General Meetings (EGM) of the Association may be requisitioned on not less than ten working days' notice by a resolution of the Corporate Trustee; on its own decision; or by a written request

from not fewer than one hundred full members of the Association. The business of the EGM shall be confined solely to the discussion of the resolution submitted.

10.6 Resolutions of an Annual or Extraordinary General Meeting, provided they lie within the powers of the Association and the Corporate Trustee, and are not *ultra vires*, are binding. The Corporate Trustee shall rule in case of dispute on such matters.

10.7 The quorum for an AGM shall be forty full members.

10.8 The notice for an AGM shall be one month, and all business must be submitted to it within two weeks of the date for circulation.

10.9 The AGM shall be open to the students, staff and members of Court of the University.

## **11. AMENDMENT OF THE CONSTITUTION & SCHEDULES**

### **11.1 Review and Amendments**

- (a) This Constitution and its associated Schedules shall be reviewed by the Corporate Trustee at five yearly intervals.
- (b) Amendments to the Constitution or Schedules may be proposed by the Corporate Trustee on its own initiative; or by the ENSA 50; or by a committee or working party of either body; and shall be considered by the Corporate Trustee at its next scheduled meeting.

### **11.2 Constitution**

(a) The Constitution may be amended by resolution of the Corporate Trustee by a simple majority after discussion at two successive meetings of the Corporate Trustee with an enhanced quorum (as defined in Para 6.4(b) above).

(b) The proposed amendments must be approved by all of:

- two-thirds of a quorate ENSA 50;
- a majority vote of the Members of the Association in a referendum as defined in clause 8.4 above; and
- the Court of the University.

(c) Following approval by Court the proposed amendments to the Constitution must be submitted to OSCR, and if requiring their approval, only after that does the Constitution as amended come into effect.

### **11.3 Schedules**

(a) The Schedules to the Constitution within the body of the Constitution, may be amended by resolution of the Corporate Trustee by a simple majority, after due consideration; the amended Schedule must then be approved by two-thirds of a quorate ENSA 50; and submitted to the Secretary to Court for approval on behalf of Court.

## **12. WINDING UP**

The Association may be wound up in the case of bankruptcy or liquidation; or by a Resolution to wind up being passed by a two-thirds majority of the Corporate Trustee after consideration at two successive meetings; and ratification by a two-thirds majority of a quorate Annual or Extraordinary General Meeting of the Association. The University Court shall be advised and consulted on such a step. The assets of the Association shall be disposed of according to legal requirement.

**SCHEDULES**  
**(this does not form part of the Constitution)**

SCHEDULE 1: MEMBERSHIP OF EDINBURGH NAPIER STUDENTS' ASSOCIATION

SCHEDULE 2: MEMBERSHIP OF THE CORPORATE TRUSTEE

SCHEDULE 3: STUDENT DEMOCRATIC STRUCTURES

SCHEDULE 4: ELECTIONS AND REFERENDUMS

SCHEDULE 5: SABBATICAL PRESIDENTS, STATUS AND PORTFOLIOS

SCHEDULE 6: SPORTS CLUBS AND STUDENT SOCIETIES

SCHEDULE 7: COMPLAINTS PROCEDURE

SCHEDULE 8: DISCIPLINARY PROCEDURES

**SCHEDULE 1: MEMBERSHIP OF EDINBURGH NAPIER STUDENTS' ASSOCIATION**

**1. Members**

**Definition:**

- 1.1. All currently matriculated students of Edinburgh Napier University who have not opted out of membership under the 1994 Education Act are full members of Edinburgh Napier Students' Association.
- 1.2. The elected sabbatical officers (President and Co-Presidents) for the period in which they hold sabbatical office are full members of Edinburgh Napier Students' Association.

**2. Non-Member Beneficiaries**

**Definition:**

Currently matriculated students of Edinburgh Napier University who have opted out of Students' Association membership under the Education Act 1994.

**Rights:**

As beneficiaries of the charity non-members as defined above may access services but may not vote, stand for, or hold office in the Association's student-democratic structures, including core positions in the Association's sports clubs and societies. Under BUCS/SSS<sup>1</sup> rules they may not play representative student sport.

**3. Associate Members**

**Definition:**

Non-students may become associate members upon payment of an annual membership fee, at a level set annually by the Board of the Corporate Trustee. Associate members are then eligible to become members of a sports club or society upon payment of the relevant fee.

**Rights:**

Associate members may apply to join an ENSA sports club or society upon payment of the relevant annual membership fee. They shall not be eligible to play representative sport under ENSA's auspices. They may not vote, stand for, or hold office in the Association's student-democratic structures, including core positions in ENSA sports clubs and societies.

**4. Reciprocal members**

**Definition:**

The Association may, from time to time, have reciprocal arrangements with other students' Associations and related organisations, to encourage collaboration and engagement between students from different students' Associations on a range of social, cultural, and sporting activities.

**Rights:**

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<sup>1</sup> BUCS/SSS British Universities and Colleges Sport/ Student Sport Scotland

The rights and responsibilities of Edinburgh Napier University students, whether acting as the guests of other Associations or related bodies, or as the Association hosts of non-members; shall be determined by the rules and regulations of the respective host organisations.

**Rules:**

The Association's rules and regulations for reciprocal membership shall be approved by the Board of the Corporate Trustee, reviewed at least every three years and published on the Association's website.

**5. Termination of Membership**

5.1 Members shall automatically cease to be members when:

- (a) they cease to be matriculated students or sabbatical officers or,
- (b) their membership is terminated under the Association's disciplinary procedures, in which case, if still a matriculated student, they become a non-member beneficiary; or,
- (c) upon notification to the Association, that they wish to opt out of membership under the provisions of the Education Act 1994; in which case they become non-member beneficiaries.

5.2 Non-Member Beneficiaries shall automatically cease to be entitled to any benefits when:

- (a) they cease to be matriculated students; or
- (b) they have breached the conditions under which benefits may be accessed.

5.3 Associate Members shall automatically cease to be entitled to any benefits when:

- (a) the period covered by their associate membership ends and is not renewed at which point their membership of any sports club or society also lapses; or
- (b) they have breached the conditions under which benefits may be accessed; or
- (c) their membership is terminated under the Association's disciplinary procedures, or a sports club or society excludes them under their disciplinary rules.

5.4 Reciprocal membership is based on the mutual agreement of host and guest Students' Associations and may be rescinded if either party terminates the agreement.

**SCHEDULE 2: MEMBERSHIP OF THE CORPORATE TRUSTEE.**

**1 Responsibility of the Board of the Corporate Trustee and its Directors.**

- 1.1 The Corporate Trustee is the Charity Trustee and has the general control and management of the administration and governance of the Association. It may legitimately devolve some areas of ENSA's business and activities to standing committees and groups.
- 1.2 All committees and groups exist under the delegated authority of, and are directly accountable to, the Corporate Trustee and must report back to the Corporate Trustee as requested.
- 1.3 There shall be a Finance Committee to deal with aspects of the Association's financial governance.
- 1.4 The Board shall approve the membership of each Committees including its Chair.

**2 Shared and Individual Responsibilities**

- 2.1 All Directors of the Corporate Trustee, regardless of their origin and experience, or their length of service, are full and equal members of the Corporate Trustee, and as such they are collectively responsible for the actions and decisions made by the Corporate Trustee and in respect of the Association's general good governance during their term of office.
- 2.2 All Directors are bound by Scottish Charity Law.
- 2.3 All Directors of the Corporate Trustee are expected to adhere to Nolan's Principles of Public Life, acting selflessly to make decisions solely in the interest of the Association and its beneficiaries, taking personal responsibility for declaring interests and for managing any conflict or potential conflicts that may arise from these.
- 2.4 Their focus as Directors of the Corporate Trustee is to make the Association stronger and more effective as a charitable organisation, using its resources to deliver its mission to its beneficiaries; and to develop and monitor the implementation of its strategic plan.

2.5 The Directors are accountable to the Corporate Trustee.

### **3 Different Constituency Sources**

3.1 There are four constituencies for recruitment to the Board of the Corporate Trustee:

- (a) External Directors
- (b) Student Directors
- (c) Sabbatical Directors
- (d) External Director appointed from Edinburgh Napier University Court

3.2 The balance of numbers from each of the constituent groups is specified in the core Constitution (6.3).

### **4 Recruitment Method**

#### **4.1 External Directors**

Appointed by a process of open recruitment through advertisement, and interview by a cross-section of current Directors. The Board may base its recruitment on a general set of criteria, or may, from time to time, identify specific skills, experience or attributes that it is seeking in order to strengthen the effectiveness of the Board.

External Directors must be eligible to be a charity trustee and a company director. This category of Directorship shall not be open to current students of Edinburgh Napier University or current University or Association staff. Directorship shall not be open to former sabbatical officers or Association staff who have vacated their position within the previous five years.

#### **4.2 External Lay Director appointed from the Court of Edinburgh Napier University**

The Chair of Court shall be invited to propose a member of Court, in discussion with the Chair of the Board of Directors in relation to the balance of skills and experience sought for the Board. The Chair of the Board of Directors will canvas views of the other members of the Board before they are asked to confirm the appointment of the person proposed. The appointment is subject to the person proposed being eligible to be a charity trustee and a company director.

#### **4.3 Student Directors**

Appointed by a process of open recruitment following cross campus advertisement of the position(s), and interview by a cross section of current Directors. The Board may base its recruitment on a general set of criteria, or may, from time to time, identify specific skills, experience or attributes that it is seeking in order to strengthen the effectiveness of the Board.

Student Directors must be eligible to be a charity trustee and a company director. This category of Directorship is restricted to Members of the Association.

#### **4.4 Sabbatical Directors**

Ex officio by virtue of being elected as sabbatical officers by the student body in a cross campus ballot and subject to them being eligible to be a charity trustee and a company director.

### **5. Term of Office**

#### **5.1 External Directors**

Normally three years from the date of the first meeting they are eligible to attend following their appointment.

Subject to the approval of the Corporate Trustee, an External Director may serve a second term of, normally, three years; the combined term, whether continuous or broken, not exceeding eight years.

#### **5.2 External Director appointed from the Court of the University**

Normally three years from the date of the first meeting they are eligible to attend following their appointment.

Subject to the approval of the Corporate Trustee, the Court External Director may serve a second term of, normally, three years; the combined term, whether continuous or broken, not exceeding eight years.



The Court External Director's term of office cannot extend beyond their term of office on the University Court.

### 5.3 Student Directors

A standard term of office shall run for one year, normally concurrently with the sabbatical term of office, from 1 July to the following 30 June.

Subject to the approval of the Corporate Trustee, a Student Director may serve a second term of one year; the combined term, whether continuous or broken, not exceeding two years.

### 5.4 Sabbatical Directors

The period of Director office shall run concurrently with the sabbatical term of office, which shall normally run from 1 July to the following 30 June.

Subject to re-election to sabbatical office in a ballot of all members, a sabbatical officer may be a Sabbatical Director for a second term of one year; the combined term, whether continuous or broken, not exceeding two years. An exception is made when a sabbatical officer, to cover for a sabbatical officer who has demitted office before the end of their term, takes up office early, in the 3<sup>rd</sup> trimester prior to 1 July, when that interim period shall not count towards the two year maximum.

## 6. Chair and Vice-Chair of the Board of Directors

6.1 The arrangements for election of the Chair of the Board of Directors of the Corporate Trustee are specified in section 6.5 of the Constitution.

6.2 The Board may elect a Vice-Chair from among its External Directors except that the Court Director is not eligible. The period of election as Vice-Chair shall normally be three years, with re-election for, normally, a further three years up to a maximum eight years.

6.3 The period of office as Vice-Chair shall count towards the External Director's term of office. The External Director's maximum term of office and period of office as Vice-Chair may not exceed eight years.

## SCHEDULE 3: STUDENT DEMOCRATIC STRUCTURES

### 1. The Students' Association electorate

The members of Edinburgh Napier Students' Association constitute the electorate for sabbatical positions. Elections shall be run in accordance with Schedule 4.

### 2. Student democratic bodies

Once elected and in office, the sabbatical officers are accountable for their democratic leadership to the membership through the Student Council known as the ENSA 50 and at the Annual General Meeting of the Association or any Exceptional General Meeting of the Association called.

#### (A) THE ENSA 50, OR STUDENT COUNCIL

##### Coverage

The following categories of students shall all be eligible to be represented on ENSA 50:

All undergraduate, taught postgraduate and research postgraduate students, including specifically:

- (a) First year students, direct entrants, international students studying on Edinburgh campus-based programmes.
- (b) Students studying online and students studying with TNE partners.
- (c) Students studying on each of the three main campuses.
- (d) Students who are office-bearers in student societies.
- (e) Students who are office-bearers in sports clubs.

##### Membership

The ENSA 50 shall comprise at least 40 and not more than 60 students, elected to fill reserved or open places as follows:

- (a) The elected sabbatical officers are ex officio members

- (b) The electoral colleges are the Sports Forum; the Societies Forum; the Student Representatives' Forum on each main campus; the distance-learning student forum; the TNE student forum; the research postgraduate student forum.
- (c) Each of these eight electoral colleges has up to three reserved places to be filled through nominations and, if required, an online first past the post ballot.
- (d) There will then be a meeting, open to all students, to fill the remaining reserved and open places on ENSA 50. There will be a process of nominations for each of the reserved places – students may be nominated or self-nominate for more than one category where the categories are as follows:  
     first year, direct entrant, international student studying at an Edinburgh campus,  
     undergraduate, taught postgraduate.
- (e) Each of the five electoral colleges in (d) above has up to three reserved places to be filled through nominations and, if required, an online first past the post ballot of those taking part in the meeting.
- (f) All places not filled by these thirteen electoral colleges (those in (b) plus (d) above), together with at least a further eight or up to eighteen places will become open places to be filled by students nominated but not elected for a reserved place from the electoral colleges above.
- (g) In the event that this has not filled at least 40 places, students may self-nominate to fill the remaining places.

## 1. Quorum

The quorum for standard business shall be half plus one of the members of the ENSA 50. Inquorate meetings cannot make binding policy.

## 2. Meetings

- 2.1. There shall be a meeting early in trimester 1, open to all full members of the Association, at which the students shall elect or appoint students to positions on the ENSA 50 as described in 2(A) Membership (d) above.
- 2.2. There shall be a minimum of two ENSA 50 meetings thereafter, the first in trimester 1 and the second in trimester 2.
- 2.3. The convenorship of the ENSA 50 shall rotate between the sabbatical officers.
- 2.4. As part of the sabbatical accountability process, each of the sabbatical officers shall submit a short written report on their work as democratic leaders and in relation to their respective student-facing portfolios. They shall present their reports to the ENSA 50 and take questions from members as appropriate.
- 2.5. They shall also present a short report from Forums that they convene, raising any key business to be referred to the ENSA 50 for further consideration or action. They shall present their reports to the ENSA 50 and take questions from members as appropriate.
- 2.6. A copy of the minutes of each ENSA 50 meeting shall go to the Board of the Corporate Trustee to inform its business.
- 2.7. Any policy position on a student-facing area shall be added to a policy digest and be the legitimate democratic policy of the Association and shall have a currency of two years from the date it was passed by the ENSA 50, at the end of which it shall automatically lapse and cease to be live policy, unless it is put before the ENSA 50 and commitment to it is renewed.
- 2.8. The ENSA 50 may create and dissolve working groups to address student issues. ENSA 50 and the Forums shall operate under meeting rules to be developed and approved by the Board of the Corporate Trustee.
- 2.9. An emergency meeting of the ENSA 50 may be convened on the receipt of a resolution signed by a minimum of twenty of the ENSA 50 members. Provided this motion is not *ultra vires*, an emergency meeting shall be held within no fewer than 10 working days of its receipt, and not later than 20 working days after its receipt. Emergency ENSA 50 business shall be confined solely to the discussion of the resolution submitted.

## **(B) FORUMS**

### **1. Remit**

- 1.1. The principal purpose of each Forum as defined in the Constitution (8.3) is to act as a consultative body and channel of communication between members and its convener; to discuss student-facing issues, ideas and concerns that are pertinent to those Forums and to enable the convener of the Forum to raise student-facing issues with the ENSA 50 and the University.

### **2. Meetings**

- 2.1. The Forums shall meet at least once per trimester, normally at least one week prior to the ENSA 50.
- 2.2. An emergency Forum may be called to enact urgent business, raised either by the convener or by a motion submitted by members representing a minimum of ten clubs or societies for a Sports or Societies Forum, or by thirty programme representatives in the case of the Programme Representative Forum or by a minimum of ten members of any other Forum. The petition shall be in the form of a motion or resolution, and provided it is not *ultra vires* the Forum's remit and relates to the legitimate business of the Forum, any such meeting must take place to discuss the specific motion alone, no fewer than ten working days, and no longer than twenty working days, following the receipt of the notice/motion by the Convener.

## **(C) THE ANNUAL GENERAL MEETING (see core constitution point 10).**

## **(D) REFERENDUMS (see core constitution point 8.4)**

### **SCHEDULE 4: ELECTIONS AND REFERENDUMS**

1. Student office holders in the Students' Association democratic structures are subject to election by the Association's members. The sabbatical officers, President and Co-Presidents are subject to election by all members in a cross-campus ballot.
2. Election to the positions on the ENSA 50 or Student Council are via voting by a range of electoral colleges for reserved places followed by a process of nomination and voting among students attending the first meeting of the ENSA50.
3. Office holders in sports clubs and societies are subject to election by their student members under their club or society rules.
4. The right to stand for office, to nominate a member for election to the Association's democratic structures and to vote in the Association's elections, is restricted to the Association's full members. Edinburgh Napier University students who have been suspended or removed from Association membership, or have opted out of membership under the Education Act 94 are not eligible to participate in any of its student democratic processes and are not eligible to hold elected office.
5. Those elected to the ENSA 50 by their respective Forums or by the first open meeting, must themselves be full members, and in the case of sports and society representatives, also paid up members of their respective club or society.
6. The Board of the Corporate Trustee has overall responsibility for the organisation and conduct of elections in relation to the Association's democratic structures, but it shall delegate the operational authority and responsibility for the implementation of the process. Delegated authority shall be assigned by the Board of the Corporate Trustee to a Principal Officer for elections.
7. **Guiding Principles for Elections:**
  - 7.1. The Association shall take all reasonable steps to ensure that its elections are free and fair; that the nomination and election processes are well-publicised to members and that no member is unfairly excluded from the right to be nominated for office or to vote in the elections.

- 7.2. The Association shall actively take steps to encourage electoral participation by the membership in its generality, both to become candidates for election and to vote in the Association elections.
- 7.3. The Association shall take the necessary steps to determine the eligibility of members to run for office and/or vote as appropriate in line with the constitutional requirements.
- 7.4. Voting for the sabbatical officer posts shall be in secret and in electronic format. Votes for places on the ENSA 50 shall be by electronic means if the Forum meets virtually and may be by show of hands at an in person meeting, but if any members are attending the ENSA 50 virtually, elections must be electronic.
- 7.5. The Association shall take all reasonable steps to create, as far as it is reasonably practicable, a level playing field between candidates who are competing for the same position. The Association shall ensure that that no candidate is unfairly disadvantaged by the electoral process or the way in which it is implemented or unfairly disadvantaged by the activities of electoral opponents and/or their supporters acting in contravention of the rules of campaign.
- 7.6. The Association shall impose a period of electoral quiet for presidential elections to prevent actions and proceedings that may be unfairly prejudicial in relation to a candidate's/ candidates' election campaign.
  - (a) Where the Association imposes a period of quiet, it shall specify the dates for its start and end. The start date will usually run from the opening of nominations or later, and the end date shall normally be after the expiry of the appeal deadline to the Principal Officer and/or the outcome of such proceedings is final; the election result has been declared and, on appeal, is ruled as "safe".
  - (b) A period of quiet shall not prevent those activities prohibited during the period of quiet from being revived after the period of quiet is lifted.

## **8. Election Officials:**

- 8.1. The Principal Officer for elections is appointed by the Board of the Corporate Trustee. During the campaign, from the opening of nominations to the declaration of the result, the Principal Officer is in overall charge of the election process.
- 8.2. For the main trimester 2 Sabbatical Presidential elections, the Principal Officer shall be the Returning Officer who shall not be a member, Director or staff member of the Association and would normally be a senior member of the University's staff. The Returning Officer shall have the operational support of a Depute Returning Officer. The Depute Returning Officer shall be a senior staff member of the Association who shall appoint a team of operational staff, including an Assistant Returning Officer, to support the process.
- 8.3. For all elections other than the main trimester 2 elections and any Sabbatical Presidential by-elections, the Principal Officer shall be the Depute Returning Officer, who shall be a senior member of the Association staff. The Depute Returning Officer shall appoint an Assistant Returning Officer and assign a staff team to support election operations as appropriate.
- 8.4. The Depute Returning Officer and their staff team shall set up the practical arrangements for the nominations and electoral processes in compliance with the rules of campaign and the Principal Officer's requirements.
- 8.5. The Principal Officer in any Association election campaign is responsible for the development of the rules of campaign. These shall be developed in accordance with good electoral practice, the guiding principles (see 7 above) and practicability.
- 8.6. The Principal Officer, usually in consultation with their depute and/or assistants, has final authority on the interpretation and implementation of the rules of campaign, handling complaints, adjudicating disputes, and imposing any penalties on candidates as appropriate, up to and including their disqualification from the election during the period from the opening of nominations to the Declaration.

## **9. Responsibilities of Election Candidates:**

- 9.1. Before a candidate's election nomination can be accepted, they must make themselves aware of the election rules and sign an obligation to abide by those rules.
- 9.2. Prior to starting their campaign every candidate is required to complete a briefing session on the rules of campaign where they will be given every opportunity to clarify any rule that is unclear.
- 9.3. It is the responsibility of candidates to brief their supporters on the rules of campaign and ensure that their campaign is compliant.
- 9.4. Any complaint that election rules have been breached must be: written on an election complaint form, citing the specific rule alleged to have been broken and, where available, accompanied by evidence to substantiate the alleged rule breach. Complaints shall only be accepted in this format.
- 9.5. Election campaigns, including voting, shall not normally be suspended pending any investigation of a complaint but shall continue throughout.
- 9.6. All candidate complaints must be with the Principal Officer within an hour of polls closing and resolved before a campaign can be closed and the election result declared.

#### **10. Final Appeal to the Board of the Corporate Trustee**

- 10.1. Any post-declaration complaint against an election ruling or declared outcome must be lodged with the Chair of the Board of the Corporate Trustee no later than three working days after the declaration of the result. Any such complaint must be in writing, citing the specific rule(s) breached and assessing the potential impact of that breach, and submitted with any accompanying evidence.
- 10.2. The Chair may decide the process for handling the appeal in consultation with other members of the Board, and/or, if required, under legal advisement, but generally it shall be handled by an appeals panel comprising two uninvolved External Directors and a nominated member of University staff.
- 10.3. If the Chair is of the view that the complaint, regardless of its merits, could and should have been submitted to the Returning Officer or Depute Returning Officer during the election process itself, but that the complainant has deliberately appealed to the Board in order either to circumvent that process, or to counter an unfavourable electoral outcome, this may be taken into consideration as a material factor in determining the outcome of any appeal.
- 10.4. During the period under which any appeal against an electoral result is being considered, the declared result shall stand unless and until an outcome is overturned or declared null and void by the Chair of the Board.
- 10.5. The Board's decision on an appeal shall be final.

#### **11. Referendums**

- 11.1. A referendum of all students who are full members of the Association is a required stage in the approval of changes to the Constitution (see 11.2 in the core Constitution).
- 11.2. The Board of the Corporate Trustee has overall responsibility for the organisation and conduct of referendums but it shall delegate the operational authority and responsibility for the implementation of the process. Delegated authority shall be assigned by the Board of the Corporate Trustee to a Principal Officer for referendums.

#### **12. Appeal to the Board of the Corporate Trustee**

- 12.1. Any complaint or appeal regarding the conduct of the referendum before it has concluded must be made to the Chair of the Board of the Corporate Trustee no later than five working days before the referendum is due to close.
- 12.2. Any appeal regarding the outcome of the referendum must be made to the Chair of the Board of the Corporate Trustee no later than three working days after the declaration of the result.
- 12.3. Any complaint or appeal must be in writing and submitted with any accompanying evidence.
- 12.4. The Chair may decide the process for handling the complaint or appeal in consultation with other members of the Board, and/or, if required, under legal advisement, but generally it shall be handled by an appeals panel comprising two uninvolved External Directors and a nominated member of University staff.

12.5. The Board's decision on a complaint or appeal shall be final.

## **SCHEDULE 5: SABBATICAL PRESIDENTS, STATUS AND PORTFOLIOS**

### **1. Values and Status**

- 1.1 The Students' Association elects annually three sabbatical officers who are co-equal and bear the titles respectively of:  
President (Societies and Community)  
Co-President (Education and Employability)  
Co-President (Sport and Student Wellbeing).
- 1.2 The sabbatical officer designated President is denoted as Student President to the University, University Court and relevant external bodies such as the National Union of Students (NUS).
- 1.3 Sabbatical officers are simultaneously:
  - (a) Directors of the Corporate Trustee;
  - (b) Democratic leaders and elected representatives of the Students' Association's members;
  - (c) Employees of the Association on a contract of employment.
- 1.4 Sabbatical office is dependent on fulfilling all three roles. Resignation or removal from any one will automatically result in a sabbatical term of office being terminated.
- 1.5 The value of Sabbatical President and Co-Presidents to the Association lies in three key factors:
  - (a) their status as co-equal Directors of the Corporate Trustee focusing on making the Association stronger and more effective as a charitable organisation, using its resources to deliver its mission to its beneficiaries; and to develop and implement its strategic plan;
  - (b) their status as co-equal democratic leaders, elected by the Association's membership to listen, lead and be the legitimate representatives of the student body's collective interests to the University and to the wider community, through the creation of student-facing policy; and to campaign on issues affecting the well-being of the Association's members;
  - (c) their status as employees of the Association working to fulfil their portfolio of responsibilities and duties within a managed structure and under a contract of employment.
- 1.6 Sabbatical Presidents are full and equal Directors of the Corporate Trustee. They are also full and equal members of the ENSA 50.

### **2. Election, Discipline and Removal from Office**

- 2.1 For the election of Sabbatical Presidents/Co-President see Schedule 4.
- 2.2 For the discipline and/or removal of a Sabbatical President/Co-President from office see Schedule 8.
- 2.3 Only the Board of the Corporate Trustee and the ENSA 50 may dismiss a Sabbatical President/Co-President.

### **3. Eligibility**

- 3.1 Sabbatical office is open to all matriculated Edinburgh Napier University students, provided they are also members of the Association.
- 3.2 Their eligibility is subject also to their not being disqualified by law from being a trustee of a charity registered in Scotland or a director of a company.
- 3.3 Their appointment shall be subject to election to their specific role, by the student membership in a cross University ballot, normally held in trimester 2;
- 3.4 Sabbatical vacancies that occur within a standard term of office shall be decided by ballot of the student membership, unless and until a vacancy occurs after the trimester 2 elections, when it is permissible for a President or Co-President elect to fill the vacancy created from 1 May onwards. In this case the period from 1 May to 30 June preceding an official term of office shall not count as part of a term of office.

#### **4. Accountability**

- 4.1 A sabbatical officer's contract of employment may be terminated:
- (a) by the sabbatical officer providing one month's written notice of resignation to the Chair of the Board of the Corporate Trustee;
  - (b) by the Board of the Corporate Trustee which may remove any Director from office summarily if, at any point, they become prohibited by law from being a charity trustee or company director; or by a majority vote of the Directors in attendance and eligible to vote at a quorate Board meeting supporting a motion to dismiss. The Sabbatical Director concerned and any others who may have a conflict of interest in relation to the matter shall not vote on this resolution and the quorum shall be adjusted to take account of any reduction in eligible voting members or,
  - (c) by the Board Chair, acting under the staff disciplinary procedure; or,
  - (d) by democratic structures, through a resolution of "no confidence" receiving the support of two thirds of voting members at a quorate meeting of the ENSA 50.

#### **5. Shared responsibilities of co-equal sabbatical presidents**

- 5.1 To be a co-equal Director of the Corporate Trustee and to play a full part in its business and in the strategic development of the Association.
- 5.2 To act collectively as the democratic leadership of the student body at Edinburgh Napier University and on behalf of the Association's members to improve the student experience.
- 5.3 To convene the Association's Forums and ad hoc student groups and support the work of the ENSA 50.
- 5.4 To develop student-facing policy portfolios.
- 5.5 To lead and support representations and campaigns on behalf of the Association's membership to raise awareness and win improvements on its behalf.
- 5.6 Regularly and actively to engage with students in person, and via the Association's social media and other communication channels to keep them updated about the Association and its work and to seek their views.
- 5.7 To support the Association's events, including training, campaigns and Freshers Week.
- 5.8 To attend and participate in a range of working groups, committee meetings, and forums in a representative capacity to advance the interests of the membership.
- 5.9 To deliver on manifestos.
- 5.10 To participate in the work of the University and with external associations and agencies where this is consistent with the strategic aims of the Corporate Trustee; is within the Charitable Objects of the Association; and is in accordance with the policy portfolios.
- 5.11 To undertake the specific roles assigned to their Presidential/ Co-Presidential post.

#### **6. Presidential Portfolios**

- 6.1 **President for Societies and Community,**
- (a) To be designated as the President for primary University contact and to be the primary spokesperson and representative on matters relating to the student community in its generality and its constituent parts, including student societies.
  - (b) To be the primary spokesperson and chief representative of the student body to University senior management and the University Court.
  - (c) To work to create the conditions, culture and extra-curricular activities to support the development of a shared sense of student identity that transcends academic programmes and campus locations and builds communities amongst members. This shall include making representations to the University over improvement of the Estate and facilities to support this aim.
  - (d) To promote active student engagement by members in student societies and student communities, and to contribute to the organisation of events aimed at building student communities.

- (e) To evidence the impact of extra-curricular activities on students' development and employability and campaign for wider recognition and support for this as core to the overall student experience.
- (f) To enhance society office holders' effectiveness and the development of student societies through regular communications, publications and involvement in training events.
- (g) To convene the Societies Forum (a minimum of twice annually, once in each of the first two trimesters) and take forward business from this Forum to the ENSA 50 and other forums.

## **2.2 Co-President for Education and Employability**

- (a) To be the primary spokesperson and representative on matters relating to students' academic experience and employability.
- (b) To work with the University, and other bodies as appropriate, to ensure that the student voice is heard in the development of academic policy and practice at all levels of decision-making.
- (c) To promote active student engagement by members in their own learning and teaching experience and to encourage members to engage with appropriate support services.
- (d) To campaign to improve the quality of the academic experience and for policies and facilities that support and enhance members' academic experience.
- (e) To campaign to ensure that University programmes of study develop skills and knowledge that are responsive to the needs of the graduate employment market and that support services offer appropriate opportunities for students to improve their employability.
- (f) To enhance student representatives' effectiveness through regular communications, publications and through involvement in training events.
- (g) To convene Programme Representatives' Forums at the three Edinburgh campuses and take forward business from these to the ENSA 50 and other forums; and to assume special responsibility for the representation and support of TNE and Global Online students.

## **2.3 Co-President for Sports and Student Wellbeing**

- (a) To be the primary spokesperson and representative on matters relating to Sport and Student Wellbeing.
- (b) To promote the physical and mental well-being of members and to lead and support initiatives and campaigns aimed at improving student safety and student health.
- (c) To campaign to ensure that the University includes a strong commitment to Sport and Wellbeing in its strategies, including the University Estates Strategy.
- (d) To convene panels to oversee the allocation of funding for Sport as determined by the Corporate Trustee or University and to develop transparent and fair criteria and processes for funding.
- (e) To contribute to the organisation of Sports events and to fund raise for events as appropriate.
- (f) To enhance sports club office holders' effectiveness and the development of Sport and sports clubs through regular communications, publications, involvement in training events and to promote health and safety in competitive and recreational sport.
- (g) To convene the Sports Forum (a minimum of twice annually, once in each of the first two trimesters) and take forward business from this Forum to the ENSA 50 and other forums.

## **SCHEDULE 6: SPORTS CLUBS AND STUDENT SOCIETIES**

- 1.** In support of its objects, the Association regulates and supports the establishment and operation of sports clubs and student societies.
- 2.** It has developed a framework of regulation which governs
  - (a) How a sports club or student society may be established
  - (b) Its model constitution
  - (c) The office-bearers it must have and how they are to be elected from among the members
  - (d) The training that is required of its office-bearers



- (e) Its arrangements for associate members
  - (f) Its disciplinary procedures
  - (g) How the club or society may set its membership fee for members and associate members of the Association
  - (h) Protocols it must adhere to in respect of contracts for commercial and sponsorship income
  - (i) The requirements in respect of participation in activities by members, associate members and non-members, adhering to the terms of the insurance which the Association holds
  - (j) The budgeting and finance procedures that it must operate through the Association
  - (k) The arrangements the club or society must have for safeguarding, health and safety, risk assessment and other requirements of sports governing bodies and relevant legislation
  - (l) The security and management of a club' or society's assets
  - (m) How the club or society may be wound up
  - (n) The arrangements for protecting its assets in the event that it is wound up.
3. Each sports club or student society is expected to be financially self-sustaining from its membership fee income and through such commercial and sponsorship income as it is able to attract.
  4. This does not preclude the Association from making further funding available to a club or society, based on a policy and procedure that the Association operates to ensure fairness and openness in its allocation of such funds.
  5. The Association's staff provide support to clubs and societies and their office-bearers through training, booking of space and facilities, booking of travel, financial record-keeping, and general guidance and advice.
  6. The Association has a designated Clubs and Societies bank account which is the sole means through which a club or society may hold and operate its funds with nominal accounts established for each club or society.
  7. Each club or society must adhere to the financial procedures of the Association which are intended to protect a club or society from becoming insolvent.
  8. The Association maintains membership of relevant bodies<sup>2</sup> through which sports clubs and their members may take part in competitive sport.
  9. The Association holds insurance cover for the activities of clubs and societies and for those participating in competitive sport.
  10. The Association's framework of regulation for clubs and societies and its operational procedures are published on the Association's website.
  11. The framework of regulation is considered by the Sports Forum, the Societies Forum and by the ENSA 50 and approved by the Board of the Corporate Trustee. It is reviewed at least every three years.

## **SCHEDULE 7: COMPLAINTS PROCEDURE**

1. **This procedure may be accessed by:**
  - 1.1. Any matriculated student who is a member of the Students' Association or any student who is a non-member beneficiary by reason of having opted out of membership, or any group of students, either members or non-member beneficiaries, who are entitled to complain if they are dissatisfied in their dealings with the Association or claim that they have been unfairly disadvantaged by reason of having exercised their right not to be a member.
  - 1.2. Any associate member or reciprocal member who is dissatisfied in their dealings with the Association may also access this complaints procedure.
  - 1.3. Any non-student or group of non-students who allege that the Association has breached the requirements of section 22 of the Education Act 1994.

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<sup>2</sup> Such as Student Sport Scotland and BUCS.

- 1.4. Only in the situation that a member of the Association staff considers that the Association has breached the requirements of section 22 of the Education Act 1994, may they access this complaints procedure.
- 1.5. Otherwise than in 1.4 above and 1.12 below, Association staff including sabbatical officers shall have recourse to the suite of human resource policies and procedures maintained by the Association, including the staff grievance policy.
- 1.6. With any complaint, the first recourse should be to seek to resolve informally the issue giving rise to the complaint. The CEO or Chair of the Board of the Corporate Trustee upon receipt of a complaint should first determine whether informal discussion with the complainant(s) and appropriate action thereafter could reasonably be expected to achieve informal resolution. Only if informal resolution has been unsuccessful or if the complaint was deemed unlikely to be resolved informally, shall the formal procedure which follows be invoked.
- 1.7. If the complaint alleges that the Association has breached the requirements of section 22 of the Education Act 1994, the Association shall notify the Secretary to Court as soon as reasonably practicable and advise the steps that it intends to take to investigate and determine the complaint. Thereafter the Association will provide the Secretary to Court with sufficient information for the University Court to determine whether the Association has complied with the requirements of section 22 of the 1994 Act. In the event that the Secretary to Court requests further information from the Association in order to fulfil its obligations under this section, the Association will provide the Secretary to Court with this information as soon as reasonably practicable.
- 1.8. The complaint shall normally be investigated by the CEO on behalf of the Chair of the Board and decided by the Chair of the Board. The Chair may appoint another external Director or independent person to commission the investigation and decide the complaint if there may be, or may be any perception of, a conflict of interest in the Chair deciding the complaint. If there may be, or may be any perception of, a conflict of interest in the CEO undertaking the investigation, a member of staff, or an External Director not involved in the matters under investigation, or an independent person may be commissioned by the Chair or other appointee.
- 1.9. Where a complaint is upheld an effective remedy shall be determined by the Chair or their appointee.
- 1.10. A student or group of students whose complaint has been decided have a right of appeal to the Secretary to Court (or their nominee). The Secretary to Court may decide, having regard to any representations made by a student or group of students, and the Association, to appoint an independent person to hear the appeal.
- 1.11. A non student or group of non students whose complaint has been decided have a right of appeal which shall normally be lodged with an external Director who has had no involvement in the case. That Director may appoint another Director or an independent person to hear the appeal or may, if there can be no perception of conflict of interest, decide to hear the appeal themselves.
- 1.12. Only in the situation where the complaint made by the non student or group of non students (including for this purpose a member of the Association's staff) alleged that the Association had breached the requirements of section 22 of the Education Act 1994, shall the appeal be lodged with the Secretary to Court. (or their nominee). The Secretary to Court may decide, having regard to any representations made by a non-student, or group of non-students, and the Association, to appoint an independent person to hear the appeal. Otherwise the appeal shall be heard by an external Director who has had no involvement in the case.

## **2. Complaint Format:**

- 2.1. Any complaint must be in writing and sent to the CEO or, if it refers to the CEO, to the Chair of the Board, or if it refers to the Chair of the Board of the Corporate Trustee, to another member of the Board of the Corporate Trustee not involved in the matters in the complaint.
- 2.2. The CEO may determine, where a complaint from a student or students refers to an elected sabbatical officer, that it is not eligible to be heard under the Complaints Procedure and, provided the

complainant is a member of the Association, shall signpost the complainant to the means of holding an elected officer to account through democratic structures.

### **3. Procedure:**

- 3.1. The person carrying out an investigation of the complaint shall request evidence from the complainant, witnesses and others cited in the complaint, where possible meeting with them to ask questions. They shall then prepare a report for the Chair of the Board or appointee, concluding whether there is evidence to support the complaint being upheld in whole or in part.
- 3.2. The investigation shall normally take place within 10 working days of receipt of the complaint. This may be extended to allow reasonable time to appoint an investigator or for witnesses and other parties to be interviewed or to produce evidence.

### **4. Outcomes and Timescales:**

- 4.1. The decision following a complaint investigation may be:
  - (a) to uphold the complaint in whole or in part, determining a remedy.
  - (b) to not uphold the complaint, giving reasons.
- 4.2. The outcome of a complaint shall be communicated in writing to the complainant within a week of the outcome being decided. This notification shall also inform the complainant that they have one week from the date of the notification of the outcome of the complaint to appeal against the outcome or the remedy, stating their grounds for appeal.

### **5. Appeal of a Complaint Outcome**

- 5.1. This may be made on 3 grounds:
  - (a) procedural irregularity; that the Association has not followed its own procedure;
  - (b) non-compliance with principles of natural justice; that the outcome is not consistent with the evidence presented; or the remedy is not appropriate;
  - (c) non-compliance with section 22 of the Education Act 1994.
- 5.2. The appeals stage does not re-hear the whole case, but will restrict itself to reviewing the procedure followed and the evidence on which the original decision was made, and ensuring that it complied with the agreed procedure and that the outcome was reasonable and lawful.
- 5.3. An appeal shall normally be heard within 10 working days of receiving it, and a decision on the appeal, in writing, shall normally be issued within a week of the decision on the appeal.
- 5.4. The person hearing the appeal may decide to:
  - (a) dismiss the appeal, in which case the decision to not uphold the complaint shall stand;
  - (b) refer the case back to the Chair of the Board or appointee for the case to be reviewed to take account of the recommendations of the person hearing the appeal; in which case the complaint may then be upheld in whole or in part;
- 5.5. If the appeal was in relation to the remedy decided, the person hearing the appeal may require the Chair of the Board or appointee to determine a different remedy.

### **6. Complaints to the Scottish Charity Regulator (OSCR)**

- 6.1. Nothing in this complaints procedure shall prevent a student or non-student from exercising their right to make a complaint regarding the Association to the Scottish Charity Regulator (OSCR).

### **7. Summary within Annual Report and Accounts**

- 7.1. The Association's Annual Report and Accounts shall provide a summary of the number, type and outcome of complaints.

## **SCHEDULE 8: DISCIPLINARY PROCEDURES**

1. Directors may be subject to discipline by the Board of the Corporate Trustee.
2. The Board's disciplinary procedures are given in section 8 below and are published on the Association's website. They apply to all Directors (External, External Court, Student, and Sabbatical).
3. The Association's sabbatical officers may be subject to:
  - (a) discipline by the Board for their actions as Directors, or
  - (b) discipline by their line manager, the Chair of the Board, for their actions as employees of the Association, or
  - (c) the sanctions of the ENSA 50 for their actions as democratic leaders.
- 3.1. Holding sabbatical office is conditional on sabbatical officers fulfilling the requirements of all three roles. If a sabbatical officer resigns, or is removed or dismissed from any of their roles for disciplinary reasons, it shall automatically follow that they shall cease to be Directors and sabbatical officers, and their contract of employment is terminated.
- 3.2. The only authorities which are empowered to dismiss a sabbatical officer are the Board of the Corporate Trustee or the ENSA 50.
- 3.3. The Board's disciplinary procedures are given in section 8 below.
- 3.4. The Association's staff disciplinary procedures are published on the Association's website.
- 3.5. The Association's policy and procedure for Disciplining a Democratic Leader or Member of the ENSA 50 is given in section 9 below.
4. Members of the Association may be subject to discipline through the disciplinary procedures of the Association.
5. Members of sports clubs, including office-holders, and associate members may be subject to discipline through the Association's disciplinary procedures for a sports club, in relation to their conduct as members or associate members of that club.
6. Members of student societies, including office-holders, and associate members may be subject to discipline through the Association's disciplinary procedures for a student society in relation to their conduct as members or associate members of that society.
7. The Association's disciplinary procedures for its Members; and for members, including officer-holders, and for associate members of sports clubs; and for members, including office-holders, and for associate members of student societies are published on the Association's website.

Each procedure specifies the grounds for invoking disciplinary action; makes provision for an investigation to be held prior to a disciplinary hearing; advises that the person attending a disciplinary hearing may be accompanied; advises the sanctions available under the procedures; and gives the grounds for appeal against the outcome of a disciplinary hearing and the arrangements for hearing an appeal.

The Association's disciplinary procedures for its Members, including office-holders and members and associate members of sports clubs and student societies must be considered by the ENSA 50, and where relevant by the Sports or Societies Forum, and approved by the Board of the Corporate Trustee. They should be reviewed at least every three years.

## **8. Disciplining a Director:**

- 8.1. The Board of the Corporate Trustee requires that individual Directors will comply with the standards of conduct expected of a company director and a charity trustee under the law and charity regulations.
- 8.2. Grounds for Disciplining a Director:
- (a) theft, fraud, deception, negligence;
  - (b) being disqualified from holding director or charity trustee office by law or under OSCR regulations;
  - (c) breach of charity regulations or acting *ultra vires*;
  - (d) failure to declare or manage a conflict of interest;
  - (e) failure to declare the receipt of a gratuity;
  - (f) breach of the staff-student officer protocol agreement;
  - (g) false expenses claim(s);
  - (h) failure to attend Board meetings without good reason;
  - (i) failure to fulfil the responsibilities of the Director role;
  - (j) conduct causing reputational damage to the charity;
  - (k) breach of confidentiality;
  - (l) electoral malpractice, including having made a false statement on personal eligibility on the nomination form;
  - (m) making a false declaration on the Director and charity trustee declaration forms.

This list is not exhaustive.

### **8.3. Procedure for Disciplining a Director:**

- (a) The Chair may approach directors informally to address aspects of conduct.
- (b) A caution may be proposed in writing prior to a Board meeting, but may also arise out of business discussed in the meeting itself. A caution may be issued to a Director provided the motion is passed by a quorate Board meeting, the quorum having been recalculated to exclude the subject of the vote, who shall not be permitted to vote on the motion to caution.
- (c) Following the issue of a caution, the Director may be required to meet and report to the Chair or Vice-Chair between meetings to address aspects of behaviour and to monitor the situation.
- (d) A motion to dismiss a Director shall require a formal written proposal and reasonable notice of a meeting of the Board to discuss the motion. The motion shall require the support of a simple majority of a Board at which a minimum of 50% of the total directors are present. The quorum shall be recalculated to exclude the Director who is the subject of the vote, and who shall not be permitted to vote on the motion. Such a motion may arise out of either a single serious misdemeanour or after other cautions and concerns have been raised about a Director's conduct.

### **8.4. Appeal against a disciplinary decision of the Board**

Grounds for Appeal: The only grounds for appeal against a decision to discipline by the Board are that the disciplinary body acted *ultra vires* its remit or that it failed to follow its own procedures or that the penalty was too severe given the offence committed.

The appeal is to the Chair or Vice-Chair, who may, on legal advice, decide to re-convene the Board to review the case.

## **9. Disciplining a democratic leader or member of the ENSA 50**

- 9.1. The Association's primary democratic structure is the ENSA 50 and there are Forums that feed business into this body from key client groups.

- 9.2. The Forums shall have no authority to discipline sabbatical officers, but may be used to raise any concerns they may have about sabbatical officer performance or conduct through their Forum representatives on the ENSA 50.
- 9.3. The ENSA 50 shall have the authority both to “censure” or “no confidence” any of their members. A “censure” has the status of a formal warning, a “no confidence” has the status of dismissal from office.
- 9.4. Grounds for disciplining the democratic leadership, including President/Co-Presidents and all Members of the ENSA 50:
  - (a) theft, fraud, deception, negligence;
  - (b) publicly acting against official student-facing democratic policy;
  - (c) lying or deliberately misleading or misrepresenting the Association policy to the ENSA 50;
  - (d) acting *ultra vires* the objects of the charity;
  - (e) false expenses claim(s);
  - (f) failure by Sabbatical Presidents to fulfil their democratic responsibilities outlined in Schedule 5;
  - (g) breach of the staff-elected officer protocol agreement;
  - (h) criticism of a non-sabbatical staff member on a democratic platform;
  - (i) conduct causing monetary or reputational damage to the Association;
  - (j) failure to manage a conflict of interest;
  - (k) breach of confidentiality;
  - (l) electoral malpractice, including making a false statement on eligibility on the nomination form.

This list is not exhaustive.

- 9.5. Procedure for disciplining the democratic leadership:
  - (a) A censure may be submitted in writing prior to the meeting, or it may arise at a meeting out of business discussed, and shall require to be passed by a simple majority of a quorate ENSA 50.
  - (b) A vote of no confidence to dismiss a member of the ENSA 50, including sabbatical officers, shall require a formal written proposal and notice of a meeting to discuss the motion. The quorum required to pass a motion of no confidence shall be 30 members or two thirds of the total membership of the ENSA 50 whichever is greater.
  - (c) A vote of no confidence shall take immediate effect and the member must demit office. They shall have the right to appeal.

#### 9.6 Appeal against a censure or vote of no confidence

Grounds for Appeal: The only grounds for appeal against a censure or vote of no confidence by the ENSA 50 are that the body acted *ultra vires* its remit or that it failed to follow its own procedures or that the penalty was too severe given the offence committed.

The appeal is to the Board of the Corporate Trustee, which may refer the case back to the ENSA 50 to re-hear, with advice.

[ENDS]